

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1341 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

PANKAJ C MIRANI

Versus

REGIONAL TRANSPORT OFFICER

Appearance:

MR DK NAKRANI for Petitioner

MR PK SHUKLA, ld.AGP for Respondent

CORAM : MR.JUSTICE M.R.CALLA
Date of decision: 03/04/2000

ORAL JUDGEMENT

The petitioner claims to be the owner of vehicle bearing No.GJ-5-Z-2955. It is submitted that on 1st April 1999, the petitioner had moved an application that this vehicle be put to non-use for the period from 1.4.1999 to 31.3.2000 but no orders were passed on this non-use application and now on 22nd February 2000, this vehicle was detained by the detention memo and the tax is sought to be recovered from the petitioner by the respondent. In response to the Rule and notice issued by this Court on 8th March 2000 returnable on 13th March 2000, an affidavit-in-reply dated 15th March 2000 has been filed to which an affidavit-in-rejoinder has been filed. Today, learned Asstt. Govt. Pleader has filed

an affidavit-in-sur-rejoinder. It has been given out by learned Asstt.Govt. Pleader that not only on 1st April 1999 but even thereafter more than once, the petitioner moved applications that the vehicle be put for non-use and as and when the Department checked, the vehicle was not found where it was supposed it be found if not put to use and therefore, the authorities have come to the conclusion that the petitioner had actually put it to use and is liable to pay the tax to the tune of 2,00,400/for which the demand notice had been issued on 17th February 2000. Learned Counsel for the petitioner says that the vehicle was not put to use. Thus, there are disputed questions of fact in this petition. Even otherwise against the tax, remedy of appeal is available to the petitioner under Sec.14 of the Bombay Motor Vehicles Tax Act, 1958 and the petitioner has not availed that remedy as per the Rules. In the facts and circumstances of this case, it is ordered that this petition cannot be entertained. However, it will be open for the petitioner to file appeal in accordance with law and if he wants to obtain any orders with regard to the release of the vehicle, he may also move proper application before the concerned appellate authority. Such appeal and application as may be filed by the petitioner shall be decided by the concerned authority as early as possible preferably within six weeks from the date the certified copy of this order is produced before such authority. This Special Civil Application is hereby dismissed. The Rule is hereby discharged.

(M.R. Calla, J.)

Sreeram.